

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

In re:) Case No.: 12-50201
) Chapter 7
JOEL HAMPTON PATTERSON, III and)
KAREN YVETTE PATTERSON,)
)
)
)
Debtors.)

MOTION TO AMEND EXEMPTION ELECTIONS

NOW COME the above-named Debtors, by and through the undersigned counsel, and respectfully move the Court pursuant to Local Bankruptcy Rule 4003-1(b) for an Order allowing the Debtors to amend their exemption elections. In support thereof, the Debtors show the Court the following:

1. On February 24, 2012, the Debtors filed for joint relief under Chapter 7 of the Bankruptcy Code. Barrett Crawford is the duly appointed standing trustee.
2. The Debtors' §341 Meeting of Creditors was held on April 2, 2012.
3. On May 3, 2012 the Court entered an Order allowing the employment of Barrett Crawford as attorney for the Trustee.
4. On June 20, 2012 the Court entered an Order extending time for the Trustee to object to Discharge and Exemption Elections.
5. On August 21, 2012 the Court entered a second Order extending time for the Trustee to object to Discharge and Exemption Elections to October 31, 2012.
6. On November 5, 2012 the Court entered the Debtors' Discharge Order.
7. While the Debtors realize that Barrett Crawford suffered some severe health issues after their case was filed, there was no activity in their case from November 5, 2012 until January 27, 2014 when undersigned counsel received an inquiry from Jamie Gilson with John Taylor's office requesting some additional information. The Debtors are unaware of the reason for the 449 day lapse of activity in their case.
8. The Debtors listed real property at 643 Isle of Pines Road Mooresville, NC 28117 on Schedule A of their Bankruptcy Petition and used the same as their principal residence at the time their Bankruptcy case was filed.
9. The Debtors listed the current value of their residence at the time the petition was filed as \$471,400.00 and secured claims encumbering the residence in the amount of \$556,228.09, including a first position Deed of Trust from Wells Fargo Home Mortgage in the amount of \$321,296.68, and a second position Deed of Trust from Wells Fargo Bank, N.A. in the amount of \$234,931.41.

10. The Debtors did not initially claim any exemption value in their residence pursuant to N.C.G.S. § 1C-1601(a)(1) because as of the petition date the security instruments over-encumbered the property in the amount of \$84,828.09, leaving no interest to exempt.

11. On May 13, 2013, unbeknownst to the Debtors and for a still unknown reason, Wells Fargo Bank, N.A. terminated the second position security interest in the Debtors' residence thereby creating equity in the property which was not available at the time the Debtors filed for chapter 7 protections.

12. Upon information and belief, the approximate amount owing to Wells Fargo Home Mortgage under the first position security interest is \$353,382.99.

13. As a result of the reasons listed above, each Debtor now has an interest of \$35,000.00 available to claim as exempt pursuant to N.C.G.S. § 1C-1601(a)(1).

WHEREFORE, the Debtors move the Court for an Order allowing them to amend their exemptions and apply the values available to each Debtor under N.C.G.S. § 1C-1601(a)(1).

This 25th day of June, 2014.

ELLIOTT LAW FIRM, PC

By: *s/Michael K. Elliott*
MICHAEL K. ELLIOTT
Attorney for Debtors
PO Box 1821
Huntersville, NC 28078
(704) 947-3838
NC State Bar No. 31505

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

In re:) Case No.: 12-50201
) Chapter 7
JOEL HAMPTON PATTERSON, III and)
KAREN YVETTE PATTERSON,)
)
)
)
Debtors.)

**NOTICE OF MOTION AND OPPORTUNITY FOR HEARING ON
MOTION TO AMEND EXEMPTION ELECTIONS**

(No-Protest Notice: No Hearing Will Be Held Unless Request For Hearing Is Filed)

TAKE NOTICE that the above-referenced Debtors have filed papers with the Court to Amend Exemption Elections. A copy of the Debtors' motion accompanies this Notice.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to grant the relief requested in this motion, or if you want the Court to consider your views on this motion, then within fifteen (15) days after the date of this Notice set forth below, you or your attorney must file with the Court a response to the Debtor's motion at:

Clerk, United States Bankruptcy Court
401 W. Trade Street
Charlotte, NC 28202

If you mail your response to the Debtor's motion to the Court for filing, you must mail it early enough so that the Court will **receive** it on or before the date stated above. You must also mail a copy of your response to the Debtor's motion to:

Elliott Law Firm, PC
Attorney for the Debtors
PO Box 1821
Huntersville, NC 28078

If you or your attorney file a response to the Debtor's motion, a hearing will be held in the United States Bankruptcy Court for the Western District of North Carolina Statesville Division located at 200 West Broad Street Statesville, NC 28677, on August 8, 2014 at 9:30 a.m., at which time the Court will hear the subject motion. All interested parties should be present in the Bankruptcy Court for this hearing.

If you or your attorney do not file a written request for hearing or response to the Debtors' motion, a hearing will not be held, and the Court may decide that you do not oppose the relief sought in the Debtors' motion and may enter an order granting that relief.

This the 25th day of June, 2014.

ELLIOTT LAW FIRM, PC

By: *s/Michael K. Elliott*

Michael K. Elliott
Attorney for Debtors
13420 Reese Blvd. W.
PO Box 1821
Huntersville, NC 28078
NC State Bar No. 31505

CERTIFICATE OF SERVICE

THE UNDERSIGNED HEREBY CERTIFIES that a copy of **MOTION TO AMEND EXEMPTION ELECTIONS** was served upon each party listed below in a post-paid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service for mailing, or delivered via the U.S. Bankruptcy Court's case filing notification, as outlined in the attached Service List:

Linda Simpson, Esq. (ECF)
Bankruptcy Administrator
402 W. Trade Street, Room 200
Charlotte, NC 28202-1627

Barrett Crawford
Chapter 7 Trustee
P.O. Box 400
Valdese, NC 28690

John W. Taylor
Attorney for Trustee
4600 Park Road, Suite 420
Charlotte, NC 28209

This the 25th day of June, 2014.

ELLIOTT LAW FIRM, PC

By: *s/Michael K. Elliott*
MICHAEL K. ELLIOTT
Attorney for Debtors
PO Box 1821
Huntersville, NC 28078
(704) 947-3838
NC State Bar No. 31505